

CRM-M-23774-2018 &
CRM-M-36103-2016

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) CRM-M-23774-2018

Pallavi

...Petitioner

Versus

State of U.T., Chandigarh and others

...Respondents

(2) CRM-M-36103-2016

Union Territory, Chandigarh

...Petitioner

Versus

Kamla Devi and another

...Respondents

Date of Decision:-12.9.2018

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.|Dhiraj Chawla, Advocate
for the petitioner in CRM-M-23774-2018.

Mr.Parveen Chauhan, Advocate for
Mr.Gagandeep S. Wasu, APP, UT, Chandigarh
for the petitioner in CRM-M-36103-2016 and
for respondent No.1 in CRM-M-23774-2018.

Mr.Samir Rathour, Advocate
for respondents No.2 and 3 in CRM-M-23774-2018 and
for respondents No.1 and 2 in CRM-M-36103-2016.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-23774-2018 filed by petitioner Pallavi and CRM-M-36103-2016 filed by U.T., Chandigarh.

Complainant Pallavi wife of Rajesh Sharma, resident of house No.2568, Sector 22-C, Top floor, Chandigarh had submitted a written complaint addressed to SSP, Chandigarh. *Inter alia*, she levelled allegations of maltreatment and harassment at the hands of her husband and his family members in connection with demand of dowry and criminal breach of trust with regard to her *istridhan*. Formal FIR was registered. The matter was investigated and thereafter husband of the complainant, namely, Rajesh Kumar, mother-in-law Kamla Devi and sister-in-law Rachna were challaned. Judicial Magistrate Ist Class, Chandigarh framed formal charge for an offence under Section 406 IPC against all the three accused vide order dated 11.5.2015, to which, they pleaded not guilty and claimed trial.

Accused Kamla Devi and Rachna had challenged the order with regard to framing of charge against them before the Court of Sessions by way of filing a revision petition, which was assigned to learned Additional Sessions Judge- cum – Judge, Special Court, Chandigarh, who vide judgment dated 15.10.2015 accepted the revision petition and accused Kamla Devi and Rachna were discharged.

Learned Additional Sessions Judge- cum – Judge, Special

Court, Chandigarh has observed that Kamla Devi is mother and accused Rachna is bhabhi(brother's wife) of husband of complainant and all the allegations made by the complainant against them are general inasmuch as no specific date, time and month has been given, when she was tortured or harassed by them. Furthermore, no incident has been narrated in the complaint from which one can infer that the complainant was harassed by the accused Kamla Devi and Rachna in lust of dowry articles; further that there are no allegations of entrustment of dowry articles or misappropriation of same by them. It was noticed that in such like cases there is general tendency to implicate as many relatives of the husband as possible further observing that vide publication in Newspaper Punjab Kesari dated 25.2.2009, Kamla Devi had disowned her son Rajesh Kumar, who is husband of the complainant, which was done before marriage of complainant with Rajesh Kumar on 27.2.2009. It has also been noticed that marriage between Rajesh Kumar and Pallavi was culmination of a love affair, as such no *prima facie* evidence was there against accused Kamla Devi and Rachna for harassing the complainant in connection with demand of dowry or misappropriation of her dowry articles.

The complainant is aggrieved by the said order and she has filed CRM-M-23774-2018 challenging the said order of discharge of accused Kamla Devi and Rachna. Union territory, Chandigarh has also filed a similar petition bearing CRM-M-36103-2016 challenging that very order and for the said reason, both the petitions are being taken up together for disposal vide a single order.

Notice of the petitions was issued to the respondents, who put

in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

A perusal of the record goes to show that no ground is made to upset the impugned order while exercising powers under Section 482 Cr.P.C. Learned Additional Sessions Judge- cum – Judge, Special Court, Chandigarh while disposing of the revision petition has exercised the jurisdiction vested in such Court and has not exceeded the same. The order passed does not suffer from any illegality or infirmity much less apparent on the face of it. Such order cannot be said to be an abuse of process of the Court rather it is based upon proper appraisal and appreciation of evidence and correct interpretation of law.

As per the own case of the complainant that she had a love affair with Rajesh Kumar and had got married of her own on 27.2.2009 when none of her relatives was present, though some of the friends and relatives from the boy side were there. It being so, it is highly unlikely that any dowry or *istridhan* articles could have been given to petitioner-complainant at that time, which might have been entrusted to her husband or members of his family regarding, which they might have committed

any criminal breach of trust. Rather the things are to the extent that Kamla Devi, mother of Rajesh Kumar had disinherited him through a public notice in a newspaper published on 25.2.2009 for the reason that he was out of her control. Therefore, she cannot be roped in for the reason of some matrimonial discord having developed between the complainant and her husband Rajesh Kumar. Though according to the complainant, initially, she had concealed the factum of her marriage with Rajesh Sharma, however, since they had developed physical relations and she had conceived giving birth to a baby boy, later on she had informed her family members, who had agreed to solemnize marriage ceremony on 22.9.2010 in a hotel at Chandigarh, where relatives from the side of Rajesh Sharma had attended the events and various gifts were given to them. However, it needs to be mentioned here that gifts given by the relatives do not form *istridhan* of a married woman. Considering circumstances under which the marriage had been solemnized, it is unlikely that a large number of gifts etc. might have been given. In light of the circumstances in which the marriage had taken place again, it becomes highly unlikely that mother-in-law and sister-in-law of complainant would have harassed her pressurizing her to bring more dowry articles. As it comes out, after the marriage differences developed between the complainant and her husband Rajesh Kumar and in order to teach a lesson to her husband, the complainant lodged an FIR involving his mother and sister-in-law to act as a pressure tactics.

Therefore, no interference with the impugned order by way of acceptance of the two petitions is made out.

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Finding no merit in the petitions, the same stand dismissed.

12.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No